



**2020/2129(INL)**

26.10.2020

## **OPINION**

of the Committee on International Trade

for the Committee on Legal Affairs

with recommendations to the Commission on corporate due diligence and  
corporate accountability  
(2020/2129(INL))

Rapporteur for opinion (\*): Bernd Lange

(Initiative – Rule 47 of the Rules of Procedure)

(\*) Associated committee – Rule 57 of the Rules of Procedure

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## SUGGESTIONS

The Committee on International Trade calls on the Committee on Legal Affairs, as the committee responsible:

- to incorporate the following suggestions into its motion for a resolution:
  1. Highlights that it is the duty of States to protect and safeguard human rights and the corporate sector has a responsibility to respect them; recognises the efforts made so far, including by globally active companies and acknowledges the increasing presence of voluntary due diligence initiatives as well as transparency and reporting requirements; regrets the current low implementation levels of supply chain social, environmental and human rights due diligence; notes that violations of human rights and environmental standards remain widespread and the clear evidence that a number of European companies are not carrying out any form of due diligence in their supply chains, as evidenced by the European Commission’s “Study on due diligence requirements through the supply chain”; underlines that corporate due diligence has been increasingly incorporated into the laws of the Member States and notes that due diligence can boost competitiveness; welcomes in this regard the European Commission’s public commitment to introduce a legislative initiative in 2021 and stresses that corporate due diligence should be part of the forthcoming EU Trade Policy Review;
  2. Is therefore convinced that legislation for mandatory EU-level horizontal due diligence throughout the supply chain for EU and foreign companies operating within the internal market is necessary to achieve the United Nations (UN) Sustainable Development Goals, to promote good governance and to increase traceability and accountability in global supply chains, strengthen EU’s international competitiveness creating a level playing field and mitigate unfair competitive advantages of third countries resulting from lower protection standards as well as social and environmental dumping in international trade; stresses the need to consider the risk of harm rather than the size of the company, while bearing in mind the principle of proportionality;
  3. Calls on the Commission to make a robust impact assessment of the extent of the supply chain that the future due diligence regulation should apply to in order to have an actual impact on safeguarding human rights and the environment, while providing a detailed analysis of the administrative burden for businesses and specifically small and medium-sized enterprises (SMEs), the value added by EU companies, employment by EU companies and the engagement of EU companies in international markets;
  4. Recalls that the EU economy is facing the biggest global economic crisis since the Great Depression of the 1930’s with companies all over Europe hit especially hard; stresses that especially at this time no legislative initiatives of an economically inhibiting or damaging nature, such as those imposing higher administrative burdens or causing legal uncertainty, should be taken;
  5. Recalls that due diligence obligations should aim to identify, prevent, mitigate and

remedy violations of human and labour rights and of environmental standards through improvements in the respect for core labour rights and environmental standards, including the Paris climate commitments, throughout the supply chain and thereby making supply chains more robust and avoiding disruption of international trade; is convinced that due diligence increases certainty and transparency as regards the supply practices of companies sourcing from countries outside the European Union and will help protect consumer interests by ensuring the quality and reliability of products, and should lead to more responsible purchasing practices and long-term supplier relationships of companies; underlines that the UN Guiding Principles and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises state the need for access to justice and victim remediation; stresses that the future EU legislation should also include robust enforcement mechanisms and access to grievance mechanisms in the Union for victims; is convinced that human rights due diligence should be based on the 'do no harm' principle, add to existing self-regulatory and voluntary initiatives and be regarded as a dynamic process of continuous improvement; believes that the future EU regulation should support companies in managing and living up to their corporate responsibilities; and be fully aligned with all existing sectoral due diligence and reporting obligations, such as the non-financial reporting directive (NFRD), and coherent with relevant Member States' legislation; calls on the Commission to assess whether existing regulations could be updated or replaced; stresses that in the field of international trade, due diligence and responsible sourcing are to become the standard business conduct for operators of all sizes; acknowledges the differences in size and complexity of cross-border business operations and positions in the supply chains and the need to reflect this in any future due diligence requirements;

6. Welcomes the fact that sector-specific initiatives, such as the Timber Regulation, the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation, and the Anti-Torture Regulation and specifically the Conflict Minerals Regulation, have become a benchmark for targeted binding due diligence legislation in supply chains, with obligations for European companies in relation to their management systems, risk management, independent third-party audits and disclosure of information;
7. Recalls that the Commission has proposed to develop a comprehensive strategy for the garment sector as part of the new Circular Economy Action Plan, that, by including a uniform set of standards regarding due diligence and social responsibility, could be another example of integrating a more detailed approach for a specific sector; calls on the Commission to further introduce sector-specific EU mandatory due diligence legislation, for example for sectors such as forest and ecosystem risk commodities and the garment sector;
8. Welcomes the work done so far at international level; is convinced that the future due diligence regulation should build upon UN Guiding Principles, the OECD Guidelines for Multinational Enterprises and accompanying OECD Due Diligence Guidance on Responsible Business Conduct, the standards set in core International Labour Organisation (ILO) conventions and Multilateral Environmental Agreements (such as the UN Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity) and other international standards which will

facilitate future international convergence and should be developed in close collaboration with the corporate sector and all relevant stakeholders; notes that broadened European External Action Service (EEAS) reports could be used as an annual common base for self-assessment of companies; acknowledges the ongoing negotiations to create a legally binding UN instrument on Transnational Corporations and Other Business Enterprises with respect to human rights and calls on the Council to give a mandate to the Commission to be actively involved in those ongoing negotiations;

9. Notes that more than 95% of European companies are SMEs and they are disproportionately hit by the economic fallout of the ongoing Covid-19 pandemic; stresses that the principle of proportionality needs to be applied when analysing and assessing capacity constraints, administrative costs and burdens for SMEs in the future due diligence legislation, while reflecting that due diligence is risk-based; notes that certified industry schemes offer SMEs opportunities to efficiently pool and share responsibilities; notes that certified schemes must be assessed, recognised and overseen by the European Commission; stresses that social audits must be better regulated; stresses the importance of carrying out an impact assessment to design rules that enhance competitiveness, are functional and applicable to all actors on the internal market, including SMEs; calls on the Commission to avoid duplicating already existing reporting duties and underlines the importance of having common report criteria for all companies operating on the internal market; calls for specific technical assistance to be given to European companies, especially SMEs, in order for them to be able to comply with due diligence requirements;
10. Emphasises that engagement with trade partners, in a spirit of reciprocity, is important for ensuring due diligence effects change; underlines the importance of accompanying measures and projects to facilitate the implementation of EU Free Trade Agreements (FTAs) and calls for a strong link between such measures and horizontal due diligence legislation; requests therefore that financial instruments, such as Aid for Trade, are used to promote and support the uptake of responsible business conduct in partner countries, including technical support on due diligence training, traceability mechanisms and embedding export-led reforms in partner countries; emphasises in this regard the need to promote good governance;
11. Notes that FTAs through their comprehensive and enforceable Trade and Sustainable Development (TSD) chapters promote supply chain due diligence; calls on the Commission to present proposals on how to strengthen the enforcement of the TSD chapters and to use all the existing and new instruments, such as the future Enforcement Regulation, FTAs, Economic Partnership Agreements (EPAs) and Generalised Scheme of Preferences (GSP), in order to ensure that the due diligence obligations are mainstreamed and enforced; underlines the crucial role of the newly appointed Chief Trade Enforcement Officer in the monitoring of the implementation of due diligence obligations; calls for supply chain traceability to be strengthened, based on the rules of origin of the EU Customs Code; notes that a legislative proposal from the Commission on due diligence will cover trade with all trading partners, not just those with whom the EU has concluded an FTA; stresses that such trade instruments should include strong enforcement mechanisms such as withdrawal from preferential access in the event of non-compliance;

12. Is convinced that compliance with the due diligence obligations should be a condition for access to the internal market and that operators should be required to establish and provide evidence, through the exercise of due diligence, that the products that they place on the internal market are in conformity with the environmental and human rights criteria set out in the future due diligence legislation; calls for complementary measures such as the prohibition of the importation of products related to severe human rights violations such as forced labour or child labour; stresses the importance of including the objective of combating forced labour and child labour in TSD chapters of EU trade agreements;
13. Requests that trade instruments and EU Delegations be linked to the monitoring of the application of the future due diligence regulation by European companies operating outside the EU, including by convening meaningful consultations with rights holders, local communities, chambers of commerce, civil society actors and trade unions; calls on the Commission to cooperate with Member States' chambers of commerce in providing online tools and information to support implementation of the future due diligence legislation;
14. Stresses that the business community and civil society actors, including trade unions, social partners, human rights and environmental organisations, women's organisations and indigenous communities should be part of a meaningful consultation on any due diligence policy and risk prevention and monitoring, and victims should be given the right to file a complaint in the event of infringements along the supply chain and have access to the grievance mechanism; underlines that the national contact point for the OECD guidelines for Multinational Enterprises could serve also as the point of contact for the purposes of future legislation, and notes that the OECD and domestic advisory groups monitoring the implementation of FTAs are a good example of inclusion of the third sector;
15. Highlights that comprehensive transparency requirements are a crucial element of mandatory due diligence legislation; notes that enhanced information and transparency give suppliers and manufacturers better control and understanding of their supply chains and improve public confidence in production; stresses in this regard that the future due diligence regulation should focus on digital solutions to minimise bureaucratic burdens, and calls on the Commission to investigate new technological solutions supportive of establishing and improving traceability in global supply chains; recalls that sustainable blockchain technology can contribute to this goal;
16. Recalls that women constitute the majority of workers in sectors such as garment and textile manufacturing, telecommunication, tourism, the care economy and agriculture, in which they tend to be concentrated in more low-wage or low-status forms of formal and informal employment than men; calls therefore for rules that require companies to apply a gender-sensitive approach to due diligence, and to explicitly consider if and how women could be disproportionately impacted by their operations and activities.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	27.10.2020
<b>Result of final vote</b>	+: 34 -: 3 0: 6
<b>Members present for the final vote</b>	Barry Andrews, Anna-Michelle Asimakopoulou, Tiziana Beghin, Geert Bourgeois, Saskia Bricmont, Udo Bullmann, Jordi Cañas, Daniel Caspary, Miroslav Číž, Arnaud Danjean, Paolo De Castro, Emmanouil Fragkos, Raphaël Glucksmann, Markéta Gregorová, Enikő Győri, Roman Haider, Christophe Hansen, Heidi Hautala, Danuta Maria Hübner, Herve Juvin, Maximilian Krah, Danilo Oscar Lancini, Bernd Lange, Margarida Marques, Gabriel Mato, Sara Matthieu, Emmanuel Maurel, Carles Puigdemont i Casamajó, Samira Rafaela, Inma Rodríguez-Piñero, Massimiliano Salini, Helmut Scholz, Liesje Schreinemacher, Sven Simon, Dominik Tarczyński, Mihai Tudose, Kathleen Van Brempt, Marie-Pierre Vedrenne, Jörgen Warborn, Iuliu Winkler, Jan Zahradil
<b>Substitutes present for the final vote</b>	Svenja Hahn, Jean-Lin Lacapelle

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

34	+
ECR	Emmanouil Fragkos
GUE/NGL	Emmanuel Maurel, Helmut Scholz
NI	Tiziana Beghin, Carles Puigdemont i Casamajó
PPE	Anna-Michelle Asimakopoulou, Daniel Caspary, Arnaud Danjean, Christophe Hansen, Danuta Maria Hübner, Gabriel Mato, Massimiliano Salini, Sven Simon, Jörgen Warborn, Iuliu Winkler
RENEW	Barry Andrews, Jordi Cañas, Svenja Hahn, Samira Rafaela, Liesje Schreinemacher, Marie-Pierre Vedrenne
S&D	Udo Bullmann, Miroslav Číž, Paolo De Castro, Raphaël Glucksmann, Bernd Lange, Margarida Marques, Inma Rodríguez-Piñero, Mihai Tudose, Kathleen Van Brempt
VERTS/ALE	Saskia Bricmont, Markéta Gregorová, Heidi Hautala, Sara Matthieu

3	-
ID	Herve Juvin, Maximilian Krah
PPE	Enikő Győri

6	0
ECR	Geert Bourgeois, Dominik Tarczyński, Jan Zahradil
ID	Roman Haider, Danilo Oscar Lancini, Jean-Lin Lacapelle

Key to symbols:

+ : in favour

- : against

0 : abstention